

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

EDENA AMENTLER and MICHAEL
PERSELAY,

Plaintiffs,

v.

69 MAIN STREET, LLC d/b/a FOX AND
HOUND TAVERN, GEORGE P. OWEN, TOM
J. STINER, GEORGE A. DONZELLA, and
JEFFERY J. KROL,

Defendants.

Civil Action No.:
08-0351 (PGS)

MEMORANDUM AND ORDER

This matter comes before the Court by an appeal of the Order of Magistrate Judge Bongiovanni denying Plaintiffs' request to file a Second Amended Complaint ("SAC") [Docket Entry No. 129]. The Magistrate Judge denied the filing of a Second Amended Complaint because:

1. The motion was filed more than three years after the initial complaint was filed;
2. Discovery was completed, or nearly so;
3. To allow the filing of a Second Amended Complaint would require reopening of discovery causing a substantial delay; and
4. The substance of the amendment to the Second Amended Complaint was legally insufficient or futile (premises liability and negligent security).

I agree with the Magistrate Judge's first three reasons for denying the filing of a Second Amended Complaint. In addition, my view is to file a Second Amended Complaint adding obvious negligence counts against known defendants so very late in the proceeding has not been adequately explained.

IT IS on this 3rd day of January, 2012,

ORDERED that Plaintiff's appeal of Magistrate Bongiovanni's decision [Docket Entry No. 129] is DENIED.

January 3, 2012



PETER G. SHERIDAN, U.S.D.J.